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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,017	08/01/2006	Teiko Sutoh	30162/41537	4672
4743 7590 04/01/2010 MARSHALL, GERSTEIN & BORUN LLP 233 SOUTH WACKER DRIVE 6300 WILLIS TOWER CHICAGO, IL 60606-6357			EXAMINER MCKANE, ELIZABETH L.	
			ART UNIT	PAPER NUMBER
			1797	
			MAIL DATE	DELIVERY MODE
			04/01/2010 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,017

Applicant(s)

SUTOH ET AL.

Examiner

ELIZABETH L. MCKANE

Art Unit

1797

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,7 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,7 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 7, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patel (WO 00/61200) in view of Kirckof (US 6,488,890).

Patel teaches a plasma sterilization indicator including an adsorption indicator (page 9, lines 5-9) and an organic metal compound (page 12, lines 10-26). In use, an article is placed within a container to which is affixed the indicator. See page 3, lines 21-23 and lines 29-34; page 4, lines 33-34. Patel is silent with respect to the incorporation of a polyvalent alcohol in the indicator but does teach that the inks can be 'solvent based' (page 16, lines 19-20) and/or formulated in the form of ink formulations (col.15, line 10). Kirckof teaches a plasma sterilization indicator composition that can be applied to substrates using known printing processes such as ink jet printing. The composition includes a dye(s), water, and glycol solvents. See Tables 7a and 7b. The glycol solvents used are ethylene glycol and diethylene glycol. See Example 7. It would have been obvious to one of ordinary skill in the art to use a water-soluble polyol as the 'alcohol' of Patel, since Kirckof evidences its use in plasma sterilization indicator ink compositions. The results of using a known polyol solvent in the ink formulation of Patel would have been readily apparent and expected.

Patel further discloses that the adsorption indicator may be hematoxylin (page 10, line 23), eriochrome black T (page 10, line 17), or pyridlazo naphthol (page 11, line 14) and that the organic metal compound may be an aluminum chelate compound (aluminum acetylacetonate). See page 12, line 31. It is well-within the purview of one of ordinary skill in the art to choose from the indicators and activators disclosed by Patel to achieve the desired outcome, depending upon the chosen sterilant for the plasma, as well as the humidity, temperature, and time for sterilization.

3. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patel in view of Kirckof as applied to claim 10 above, and further in view of Schmidt et al. (US 2002/01552240).

The combination of Patel with Kirckof discloses using the glycol solvent in an amount of 20% for a chemical indicator ink to be used in an ink jet printer. See Tables 7a and 7b. Schmidt et al. teaches inks for use in an ink jet printer wherein polyvalent alcohol solvents such as dipropylene glycol, polyethylene glycol, and polypropylene glycol are disclosed to be present in an amount of about 2-20%. See paras [0013]-[0014]. Schmidt et al. further discloses that dipropylene glycol is preferred as it serves as a humectant and prevents clogging and plugging of ink jet nozzles. See para [0019]. Thus, it is deemed obvious to one of ordinary skill in the art to adjust the amount of organic solvent as necessary to achieve the desired properties of the ink, where such is readily determinable by routine experimentation.

Response to Arguments

4. Applicant's arguments filed 21 December 2009 have been fully considered but they are not persuasive.
5. On page 4 of the Response, Applicant argues that the alcohol cited in the action "is not for controlling discoloration speed of the indicator." However, the Examiner is not limited to the motivation expressed by Applicant. The Examiner has provided additional motivation for the use of the polyol in the composition of Patel – that is, the use of polyols is well-known in ink jet compositions.
6. On page 5 of the Response, Applicant contends that if a polyvalent alcohol were to be used in the ink of Patel, it "would not be present in the dried ink composition after the ink has been dried." However, the instant claims do not require such but only an ink composition containing the polyol.
7. Applicant further alleges that the glycol solvent of Kirckof is merely an activator of Patel. The Examiner disagrees and notes that the glycol solvent of Kirckof is clearly a solvent for the ink jet composition. Note that the tertiary reference to Schmidt et al. supports this conclusion.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Krishnan et al. (US 2003/0130376) teaches that it was known in the art at the time of the invention to use propylene glycol bases solvents in gravure inks. See para [0012].

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ELIZABETH L. MCKANE** whose telephone number is (571)272-1275. The examiner can normally be reached on Mon-Fri; 5:30 a.m. - 2:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elizabeth L McKane/
Primary Examiner, Art Unit 1797

elm
27 March 2010